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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,395	11/12/2003	Yucel Altunbasak	062020-1310	6853
24504	7590	10/05/2007	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP			DIEP, NHON THANH	
600 GALLERIA PARKWAY			ART UNIT	PAPER NUMBER
STE 1500			2621	
ATLANTA, GA 30339				
MAIL DATE		DELIVERY MODE		
10/05/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/706,395	ALTUNBASAK ET AL.
	Examiner Nhon T. Diep	Art Unit 2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 July 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 and 24-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 and 24-34 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/27/2007</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed 7/27/2007 have been fully considered but they are not persuasive.

With regard to the applicants' argument that: "The Office Action rejects claims 1-11 under 35 U.S.C. §102(b) as allegedly being anticipated by Kim. (See Office Action, p. 2.). As noted by the Office Action, the article, "Low Complexity Rate-Distortion Optimal Macroblock Mode Selection and Motion Estimation for MPEG-Like Video Coders" was disclosed in the IDS submitted by Applicants. However, the article was not accompanied by a date of publication as the article disclosed in the IDS was not publicly disclosed. A later version of the article was published in July of 2003 at an IEEE International Conference Multimedia and Expo conference. Applicants submit a supplemental IDS, which provides information regarding the first published version of the article (including the date of publication), in compliance with 37 C.F.R. §1.98(b)(5). As indicated in form 1449, submitted herewith, the article was first published in July of 2003. Applicants respectfully submit that the present application has perfected a claim of priority to Provisional Application No. 60/426,163, filed on November 14, 2002. As such, the article does not constitute prior art under §102(b), as alleged in the Office Action. Accordingly, Applicants respectfully request that the §102 rejection of claims 1-11 be withdrawn.

Since, it is not known when the applied IDS was published and if when it became a public record, and without further proof, the examiner can not disqualify the above

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article (29 pages) cited in the IDS filed 11/12/2003, which was applied in his rejection, also noted that the applicants states "A later version of the article was published in July of 2003 at an IEEE International Conference Multimedia and Expo conference.

Applicants submit a supplemental IDS, which provides information regarding the first published version of the article (including the date of publication)", and the examiner can not rule out the fact that the applied IDS was published much earlier than the later version.

With regard to the applicants' argument that "Applicants submit that while Sethuraman teaches of simplifying the mode decision process and selecting a macroblock from a frame (step 205), Sethuraman does not appear to disclose the limitation "the processing being performed independent of other macroblocks contained in the picture," as emphasized in claim 1 above. Applicants respectfully request that the Examiner point out with particularity how and where Sethuraman teaches this feature. Applicants respectfully refer to the MPEP, which states: "Where a claim is rejected for any reason relating to the merits thereof if should be 'rejected' and the ground of rejection fully and clearly stated." MPEP § 707.07(d).".

The examiner respectfully disagrees and there are at least two instances that Sethuraman meets the limitation of the processing being performed independent of other macroblocks contained in the picture," as emphasized in claim 1 above:

- a. Sethuraman teaches "Intra mode coding involves the coding of a macroblock or picture that uses information only from that macroblock or picture." (col. 1, lines 49-51). It is respectfully submitted that after mode selection selects mode of operation, the

processing processes intra mode coding without referring to other macroblock (independent of other macroblocks contained in the picture.

b. Sethuraman also discloses "In the preferred embodiment of the present invention, the quantization scale is used to determine the proper selection of a coding mode as illustrated in FIG. 1. Thus, as the rate control module 130 alters the quantization scale to correct an overflow or underflow condition, the mode decision module 120 responds by selecting the most optimal coding mode under the current quantization scale selected for each macroblock." (col. 5, lines 29-37). Again, it is respectfully submitted that each macroblock is being processed independently from other macroblocks contained in the picture.

Having answered all of the applicants' arguments, the examiner maintains all of his rejections as set forth in the previous Office Action and as indicated below.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-11 and 24-34 are rejected under 35 U.S.C. 102(b) as being anticipated by article titled "Low Complexity Rate-Distortion Optimal Macroblock Mode Selection And Motion Estimation For MPEG-Like Video Coders by Kim et al (cited in the IDS by the applicants).

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4. Claims 1-2, 11, 24-25 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Sethuraman (US 6,037,987).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 8-10, 26 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sethuraman, in view of Kim et al.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhon T. Diep whose telephone number is 571-272-7328. The examiner can normally be reached on m-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ND  
9/30/2007



NHON DIEP  
PRIMARY EXAMINER